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Attorneys for Defendant and Counterclaimant
SMITH SEED SERVICES

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EAGLE BAG CORP, a California
corporation,

Plaintiff,

vs.

SMITH SEED SERVICES, an Oregon entity,
and DOES 1 through 20 inclusive,

Defendant.

SMITH SEED SERVICES, an Oregon entity,
and DOES 1 through 20 inclusive,

Counterclaimant,

vs.

EAGLE BAG CORP, a California
corporation,

Counterdefendant.

No. CV 06-02470 WHA

STIPULATION AND ~~PROPOSED~~
ORDER RE: AGREEMENT TO
SUBMIT MATTER TO BINDING
ARBITRATION

Plaintiff and Counterdefendant EAGLE BAG CORPORATION and Defendant and

1 counterclaimant SMITH SEED SERVICES (collectively, the "Parties"), through their
2 respective counsel, stipulate and request that the Court order as follows:

3 1. On October 31, 2006, the Parties participated in a mediation session before
4 Stewart H. Foreman, Esq., pursuant to ADR L.R. 6. The matter did not settle at the
5 mediation. Thereafter, the Parties have continued to discuss possible settlement and other
6 means to reach an expeditious conclusion to this case.

7 2. The Parties have agreed that it would be appropriate to submit this matter to
8 binding arbitration and have agreed to do so. The parties anticipate completing such
9 binding arbitration by August 31, 2007. A copy of the Parties' Agreement to Submit
10 Matter to Binding Arbitration is attached hereto as Exhibit A.

11 3. To avoid unnecessary work and expense, and to relieve the Court of the
12 responsibility for pre-trial and trial proceedings in this matter, the Parties jointly request as
13 follows:

14 (a) That the pre-trial and trial dates currently set in this matter be vacated
15 given the Parties' submission of this dispute to binding arbitration; and

16 (b) That all claims in this matter (including all counterclaims) be stayed
17 pending the Parties' completion of binding arbitration.

1 Dated: March 13, 2007.

2 PILLSBURY WINTHROP SHAW
3 PITTMAN LLP
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7 Post Office Box 7880
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9 By /s/ Robert C. Phelps

10 Attorneys for Defendant and
11 Counterclaimant SMITH SEED
12 SERVICES

13 Dated: March 13, 2007.

14 WANG, HARTMANN & GIBBS, P.C.
15 MICHELLE M. McCLIMAN
16 1301 Dove Street, Suite 1050
17 Newport Beach, CA 92660

18 By 

19 Attorneys for Plaintiff and
20 Counterdefendant
21 EAGLE BAG CORP.

22 No later than August 31, 2007, the parties must submit a joint statement notifying the Court of the
23 status of the arbitration.

24 Good cause appearing, it is so ORDERED.

25 Dated: March 16, 2007.

26 By 

27 Hon. William H. Alsup
28 United States District Court Judge

EXHIBIT A

PILLSBURY WINTHROP LLP
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SMITH SEED SERVICES

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EAGLE BAG CORP, a California
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Plaintiff,

vs.

SMITH SEED SERVICES, an Oregon entity,
and DOES 1 through 20 inclusive,

Defendant.

SMITH SEED SERVICES, an Oregon entity,
and DOES 1 through 20 inclusive,

Counterclaimant,

vs.

EAGLE BAG CORP, a California
corporation,

Counterdefendant.

No. CV 06-02470 WHA

AGREEMENT TO SUBMIT MATTER
TO BINDING ARBITRATION

Plaintiff and Counterdefendant EAGLE BAG CORPORATION and Defendant and

counterclaimant SMITH SEED SERVICES (collectively, the “Parties”), through their respective counsel, stipulate and agree as follows:

WHEREAS the Parties are currently engaged in litigation pending in the United States District Court for the Northern District of California, styled *Eagle Bag Corporation v. Smith Seed Services and Does 1 through 20, inclusive, and related counterclaims*, No. CV 06-02470 WHA (the “Lawsuit”); and

WHEREAS the Parties have agreed to submit all claims in the Lawsuit, including all counterclaims, to binding arbitration; and

WHEREAS concurrently with this Agreement the Parties have executed a “Stipulation and [Proposed] Order Re: Agreement to Submit Matter to Binding Arbitration” by which they have jointly requested that the United States District Court vacate all pending pre-trial and trial dates in the Lawsuit and stay the Lawsuit pending completion of the arbitration;

NOW, THEREFORE, the Parties agree as follows.

1. The claims in the Lawsuit shall be settled promptly by arbitration before a single arbitrator. The arbitrator shall have no authority to add to, modify, change, or disregard any lawful terms of this Contract.

2. The Parties agree to use their best efforts to complete the arbitration hearing on or before August 31, 2007.

3. The decision of the Arbitrator shall be final and binding, and judgment on the arbitration award may be entered in the United States District Court for the Northern District of California. Should the parties be unable to agree on an Arbitrator, each party shall nominate a proposed Arbitrator and the proposed Arbitrators so nominated shall have final authority to select the Arbitrator who will still as a single Arbitrator to hear and rule on the claims in this matter.

4. The parties agree to use their best efforts to agree in good faith on an Arbitrator. The parties agree that any individual who has a direct monetary interest in the outcome of this dispute shall not be selected as the Arbitrator.

1 5. The parties agree that discovery shall be limited in this arbitration to the
2 following: (1) exchange of documents requested by the parties, with such exchange to
3 occur no later than 45 days prior to the arbitration hearing and (2) simultaneous disclosure
4 of witnesses each party expects to call to testify at the arbitration hearing, accompanied by a
5 brief description of the subject matter of each witness's anticipated testimony. Any
6 disputes regarding a party's compliance with its obligations under this paragraph shall be
7 submitted solely to the Arbitrator for decision. The Arbitrator's resolution of any such
8 discovery disputes shall be final and binding.

9 6. Each party shall pay one-half of the charges of the arbitrator for any such
10 arbitration.

1 Dated: March 13, 2007.

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6 50 Fremont Street
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9 By 

10 Attorneys for Defendant and
11 Counterclaimant SMITH SEED
12 SERVICES

13 Dated: March 7, 2007.

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18 By 

19 Attorneys for Plaintiff and
20 Counterdefendant
21 EAGLE BAG CORP.